

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

ALFONSO CAPONE, II,
CDCR #F-51652,

Plaintiff,

vs.

LOS ANGELES COUNTY JAIL, et al.

Defendants.

Civil No. 07-2076 JLS (WMc)

**ORDER TRANSFERRING CIVIL
ACTION FOR LACK OF PROPER
VENUE TO THE CENTRAL
DISTRICT OF CALIFORNIA,
WESTERN DIVISION PURSUANT
TO 28 U.S.C. § 84(c)(3),
28 U.S.C. § 1391(b)
AND 28 U.S.C. § 1406(a)**

Plaintiff, currently incarcerated at the California Rehabilitation Center in Norco, California, has filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. Plaintiff alleges that his constitutional rights were violated by Los Angeles County Jail officials and Los Angeles Superior Court Judge Barbara Johnson. (Compl. at 1-2.). In addition, Plaintiff filed a prison trust fund account statement [Doc. No. 2].

I. Lack of Proper Venue

Upon initial review of the Complaint, the Court finds that Plaintiff's case lacks proper venue. Venue may be raised by a court sua sponte where the defendant has not yet filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790 F.2d 1486, 1488 (9th Cir. 1986). "A civil action wherein jurisdiction is not founded solely on diversity of

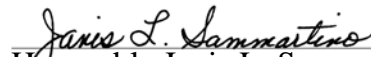
1 citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district
2 where any defendant resides, if all defendants reside in the same State, (2) a judicial district in
3 which a substantial part of the events or omissions giving rise to the claim occurred, or a
4 substantial part of property that is the subject of the action is situated, or (3) a judicial district in
5 which any defendant may be found, if there is no district in which the action may otherwise be
6 brought.” 28 U.S.C. § 1391(b); *Costlow*, 790 F.2d at 1488; *Decker Coal Co. v. Commonwealth*
7 *Edison Co.*, 805 F.2d 834, 842 (9th Cir. 1986). “The district court of a district in which is filed
8 a case laying venue in the wrong division or district shall dismiss, or if it be in the interests of
9 justice, transfer such case to any district in or division in which it could have been brought.” 28
10 U.S.C. § 1406(a).

11 Here, Plaintiff claims constitutional violations originally arising out of events which
12 occurred in Los Angeles County. No Defendants are alleged to reside in San Diego or Imperial
13 Counties. Therefore, venue is proper in the Central District of California, Western Division,
14 pursuant to 28 U.S.C. §§ 84(c)(2), not in the Southern District of California. *See* 28 U.S.C.
15 § 1391(b); *Costlow*, 790 F.2d at 1488.

16 **II. Conclusion and Order**

17 Accordingly, **IT IS HEREBY ORDERED** that the Clerk of the Court shall transfer this
18 case for lack of proper venue, in the interests of justice and for the convenience of all parties, to
19 the docket of the United States District Court for the Central District of California, Western
20 Division, pursuant to 28 U.S.C. § 84(c)(3), 28 U.S.C. § 1391(b) and 28 U.S.C. § 1406(a).

21
22 DATED: November 14, 2007

23 
24 Honorable Janis L. Sammartino
25 United States District Judge
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